

AMENDED IN ASSEMBLY MAY 3, 2005

AMENDED IN ASSEMBLY APRIL 6, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 1325

Introduced by Assembly Member Vargas

February 22, 2005

An act to amend Section 23109 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 1325, as amended, Vargas. Motor vehicle speed contest.

(1) Under existing law, it is a misdemeanor to engage in a motor vehicle speed contest, as described, punishable by, among other things, imprisonment in a county jail for not less than 24 hours nor more than 90 days.

~~This bill would revise the minimum imprisonment time to 5 days. By increasing the minimum number of days of imprisonment in county jails, the bill would impose a state-mandated local program.~~

This bill would make it a misdemeanor punishable by imprisonment in a county jail for not less than 30 days nor more than ~~one year~~ 6 months, or a specified fine, or by both the fine and imprisonment, if a person is convicted of engaging in a motor vehicle speed contest and that violation proximately causes bodily injury to a person other than the driver. Because this would create a new crime, the bill provision would impose a state-mandated local program.

(2) Under existing law, a person convicted of a violation of the offense described in (1) that occurred within 5 years of the date of a prior offense that resulted in a conviction is punishable by

imprisonment in a county jail for not less than 4 days nor more than 6 months and by a specified fine.

~~This bill would increase the term of~~ *make it a misdemeanor punishable by* imprisonment in a county jail for ~~a violation of the above to~~ not less than 30 days nor more than ~~one year, thereby imposing a state-mandated local program by increasing the number of days of county imprisonment~~ 6 months and the imposition of a fine if a person is convicted of engaging in the above described offense within the 5-year period and the most recent offense proximately causes bodily injury to a person other than the driver.

The bill would make it a misdemeanor or felony and would require the imposition of a specified fine if a person is convicted of engaging in the above described offense within the described 5-year period and the most recent violation proximately causes *serious* bodily injury, *as defined*, to a person other than the driver.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 23109 of the Vehicle Code is amended
2 to read:
3 23109. (a) A person shall not engage in a motor vehicle
4 speed contest on a highway. As used in this section, a motor
5 vehicle speed contest includes a motor vehicle race against
6 another vehicle, a clock, or other timing device. For purposes of
7 this section, an event in which the time to cover a prescribed
8 route of more than 20 miles is measured, but where the vehicle
9 does not exceed the speed limits, is not a speed contest.
10 (b) A person shall not aid or abet in any motor vehicle speed
11 contest on any highway.
12 (c) A person shall not engage in any motor vehicle exhibition
13 of speed on a highway, and no person shall aid or abet in a motor
14 vehicle exhibition of speed on any highway.

(d) A person shall not for the purpose of facilitating or aiding or as an incident to any motor vehicle speed contest or exhibition upon a highway in any manner obstruct or place a barricade or obstruction or assist or participate in placing a barricade or obstruction upon any highway.

~~(e) (1) Except as provided in paragraph (2), a person~~

(e) (1) A person convicted of a violation of subdivision (a) shall be punished by imprisonment in a county jail for not less than ~~five days~~ *24 hours* nor more than 90 days or by a fine of not less than three hundred fifty-five dollars (\$355) nor more than one thousand dollars (\$1,000), or by both that fine and imprisonment. That person shall also be required to perform 40 hours of community service. The court may order the privilege to operate a motor vehicle suspended for 90 days to six months, as provided in paragraph (8) of subdivision (a) of Section 13352. The person's privilege to operate a motor vehicle may be restricted for 90 days to six months to necessary travel to and from that person's place of employment and, if driving a motor vehicle is necessary to perform the duties of the person's employment, restricted to driving in that person's scope of employment. This subdivision does not interfere with the court's power to grant probation in a suitable case.

(2) If a person is convicted of a violation of subdivision (a) and that violation proximately causes bodily injury to a person other than the driver, the person convicted is punishable by imprisonment in a county jail for not less than 30 days nor more than ~~one year~~ *six months* or by a fine of not less than five hundred dollars (\$500) nor more than one thousand dollars (\$1,000), or by both the fine and imprisonment.

~~(f) (1) Except as provided in paragraph (2), a person convicted of a violation of subdivision (a) for an offense that occurred within five years of the date of a prior offense that resulted in a conviction of a violation of subdivision (a) shall be punished by imprisonment in a county jail for not less than 30 days nor more than one year and by a fine of not less than five hundred dollars (\$500) nor more than one thousand dollars (\$1,000).~~

~~(2) If a person is convicted of a violation of subdivision (a), the offense occurred within the five-year period described in paragraph (1), and the most recent violation proximately causes~~

1 ~~bodily injury to a person other than the driver, the person~~
2 ~~convicted is punishable by imprisonment in the state prison, or in~~
3 ~~a county jail for not less than 30 days nor more than one year,~~
4 ~~and by a fine of not less than five hundred dollars (\$500) nor~~
5 ~~more than one thousand dollars (\$1,000).~~

6 ~~(3) The court shall order the privilege of a person convicted~~
7 ~~under paragraph (1) or (2) to operate a motor vehicle suspended~~
8 ~~for a period of six months, as provided in paragraph (9) of~~
9 ~~subdivision (a) of Section 13352. In lieu of the suspension, the~~
10 ~~person's privilege to operate a motor vehicle may be restricted~~
11 ~~for six months to necessary travel to and from that person's place~~
12 ~~of employment and, if driving a motor vehicle is necessary to~~
13 ~~perform the duties of the person's employment, restricted to~~
14 ~~driving in that person's scope of employment. This subdivision~~
15 ~~does not interfere with the court's power to grant probation in a~~
16 ~~suitable case.~~

17 *(f) (1) If a person is convicted of a violation of subdivision (a)*
18 *for an offense that occurred within five years of the date of a*
19 *prior offense that resulted in a conviction of a violation of*
20 *subdivision (a), that person shall be punished by imprisonment in*
21 *a county jail for not less than four days nor more than six*
22 *months, and by a fine of not less than five hundred dollars (\$500)*
23 *nor more than one thousand dollars (\$1,000).*

24 *(2) If the perpetration of the most recent offense within the*
25 *five-year period described in paragraph (1) proximately causes*
26 *bodily injury to a person other than the driver, a person*
27 *convicted of that second violation shall be imprisoned in a*
28 *county jail for not less than 30 days nor more than six months*
29 *and by a fine of not less than five hundred dollars (\$500) nor*
30 *more than one thousand dollars (\$1,000).*

31 *(3) If the perpetration of the most recent offense within the*
32 *five-year period described in paragraph (1) proximately causes*
33 *serious bodily injury, as defined in paragraph (4) of subdivision*
34 *(f) of Section 243 of the Penal Code, to a person other than the*
35 *driver, a person convicted of that second violation shall be*
36 *imprisoned in the state prison, or in a county jail for not less*
37 *than 30 days nor more than one year, and by a fine of not less*
38 *than five hundred dollars (\$500) nor more than one thousand*
39 *dollars (\$1,000).*

1 (g) If the court grants probation to any person punishable
2 under subdivision (f), in addition to the provisions of subdivision
3 (f) and any other terms and conditions imposed by the court,
4 which may include a fine, the court shall impose as a condition of
5 probation that the person be confined in a county jail for not less
6 than 48 hours nor more than six months. The court shall order the
7 person's privilege to operate a motor vehicle to be suspended for
8 a period of six months, as provided in paragraph (9) of
9 subdivision (a) of Section 13352 or restricted pursuant to
10 subdivision (f).

11 (h) If a person is convicted of a violation of subdivision (a)
12 and the vehicle used in the violation is registered to that person,
13 the vehicle may be impounded at the registered owner's expense
14 for not less than one day nor more than 30 days.

15 (i) Any person who violates subdivision (b), (c), or (d) of this
16 section shall upon conviction thereof be punished by
17 imprisonment in a county jail for not more than 90 days or by a
18 fine of not more than five hundred dollars (\$500) or by both that
19 fine and imprisonment.

20 (j) If a person's privilege to operate a motor vehicle is
21 restricted by a court pursuant to this section, the court shall
22 clearly mark the restriction and the dates of the restriction on that
23 person's driver's license and promptly notify the Department of
24 Motor Vehicles of the terms of the restriction in a manner
25 prescribed by the department. The Department of Motor Vehicles
26 shall place that restriction in the person's records in the
27 Department of Motor Vehicles and enter the restriction on any
28 license subsequently issued by the Department of Motor Vehicles
29 to that person during the period of the restriction.

30 (k) The court may order that any person convicted under this
31 section, who is to be punished by imprisonment in a county jail,
32 be imprisoned on days other than days of regular employment of
33 the person, as determined by the court.

34 (l) This section shall be known and may be cited as the Louis
35 Friend Memorial Act.

36 SEC. 2. No reimbursement is required by this act pursuant to
37 Section 6 of Article XIII B of the California Constitution because
38 the only costs that may be incurred by a local agency or school
39 district will be incurred because this act creates a new crime or
40 infraction, eliminates a crime or infraction, or changes the

1 penalty for a crime or infraction, within the meaning of Section
2 17556 of the Government Code, or changes the definition of a
3 crime within the meaning of Section 6 of Article XIII B of the
4 California Constitution.

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